Exhibit O

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- -x

BORIS FREIRE and MIRIAM OSORIO,

Plaintiffs,

-against- 13-CV-7291(ARR)(SMG)

NEW YORK MOTOR GROUP LLC, PLANET MOTOR CARS, INC; MAMDOH ELTOUBY, NADA ELTOUBY, JULIO ESTRADA a/k/a "John" a/k/a "John Santos" a/k/a "Jay Santos" a/k/a John Dos Santos" a/k/a John Figueroa" a/k/a "Jay Torres", and SANTANDER CONSUMER USA.,

Defendants.

- -x

233 Broadway
New York, New York

January 21, 2015
10:47 a.m.

DEPOSITION of BORIS FREIRE, the Plaintiff in the above-entitled action, held at the above time and place, taken before Elena A. Egan, a Shorthand Reporter and Notary Public of the State of New York, pursuant to the Federal Rules of Civil Procedure, order and stipulations between Counsel.

* * *

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* * *

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by and among counsel for the respective parties hereto, that the filing, sealing and certification of the within deposition shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.

* * *

O S C A R G U T I E R R E Z, the Spanish interpreter, having been first duly sworn by a Notary Public, interpreted the testimony as follows:

B O R I S F R E I R E,

the Witness herein, having first been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY

MR. SIMON:

Q. What is your name?

A. Boris Freire.

Q. Where do you reside?

A. 396 Kipp Street, Apartment 1, Teaneck, New Jersey 07666.

Q. How long have you lived at that current address?

A. For, like, three months.

Q. Where did you live prior to living in Teaneck?

A. At 22 Zabriskie Street.

Q. Where?

A. Jersey City.

Q. How long?

A. For, like, a year.

B. FREIRE

Q. What kind of car did you purchase at the dealership? And when I refer to the "dealership," I'm referring to the dealership the New York Motor Group.

A. It was a Honda Odyssey, 2010.

Q. What month?

A. What month? February.

Q. And year?

A. 2013.

Q. Where did you live then?

A. When I bought the car?

Q. Yes.

A. At 355 New York Avenue.

Q. Where?

A. Jersey City, New Jersey.

Q. Why did you decide to buy a car from a dealer in Queens, New York?

A. Because on the Internet, they were showing a lower price, much cheaper than in New Jersey.

Q. The first time you went to the dealership, how did you get there?

[Interruption at this time.]

B. FREIRE

A. I went by car using a GPS.
Q. Were you alone?
A. With my wife.
Q. And her name?
A. Miriam Osorio.
Q. Were you married at the time?
A. No.
Q. When were you married?
A. We are not married.
Q. I'm sorry.
MR. SIMON: I thought he said it was his wife.
A. Yes. It was a confusion. I call her my wife because we are living together for quite a long time as a couple.
Q. Who saw the ad on the Internet?
A. I saw it.
Q. Was the advertisement in English, or was it another language?
A. It was in English.
Q. Are you employed?
A. Yes.
Q. What do you do?

B. FREIRE

A. Maintenance and cleaning.

Q. Where?

A. In Jersey City, New Jersey.

Q. What company?

A. Colin Care.

Q. How many years at the same company?

A. Since 2009.

Q. Was the Honda for you, or was it for somebody else?

A. No. It was for myself and my family.

Q. And is this family who lives with you?

A. Yes.

Q. Who did you see at the dealership the first time you came, the first person you saw?

A. Felix and Dewan.

MR. SIMON: Dewan is D-E-W-A-N.

Q. Were they both salespersons?

MR. LANE: Objection as to form. He can answer.

A. Can you repeat the question?

B. FREIRE

[Interpreter repeats.]

A. Yes.

Q. Did you tell them about the car you had seen on the Internet?

A. Yes.

Q. And was that car in stock?

A. Yes.

Q. Did they show you the car?

A. Yes.

Q. And what day was this?

[Mr. Mamdoh Eltouby entered the room at this point.]

A. It was February 17th.

[Discussion held off the record.]

MR. SIMON: We're back on the record. You can't say anything, but you can listen for now. Okay, Toby?

MR. ELTOUBY: Can I know who is who?

[Discussion held off the record.]

Q. Did you test drive the car that day?

B. FREIRE

A. No.

Q. Did you ever test drive that car?

A. No.

Q. Is that the car you eventually purchased?

A. Yes.

Q. Did you ever ask to test drive that car?

A. No.

Q. Did anybody at the dealership ever offer you the opportunity to test drive the car?

A. No.

Q. What day did you take the car home from the dealership?

A. On February 19th.

Q. From February 19th until the present day, in your own words, could you tell if you ever had any mechanical problems with the car?

A. Yes.

Q. Tell us what problems you had with the car mechanically and tell us when

B. FREIRE

they first appeared, the dates, the times these problems became apparent.

MR. LANE: Objection as to form.
Can you possibly ask --

MR. SIMON: I'll rephrase that.

Q. You say you had problems, mechanical problems, with the car. Tell us what problems.

A. I had problems with the wheel. It got stiff.

Q. The steering wheel?

A. The steering wheel got stiff.

Q. Any other problems?

A. No. Only that.

Q. Do you know how many miles were on the odometer when you purchased the car?

A. I do not recall exactly.

Q. Approximately.

A. 62,000 miles.

Q. The problem with the steering wheel, when did you first discover that problem?

A. Three days after I took it home.

B. FREIRE

Q. Did you then contact the dealership about the problem?

A. Yes.

Q. What happened regarding that problem?

A. They fix it, but it took a long time to do so.

Q. Did you bring the car back to the dealership for that purpose?

A. Yes.

Q. What do you mean they took a long time?

A. Because for me to find the financier, the one who had to fix the car, it took me a long time. He was never there.

Q. What was his name?

A. John Dos Santos.

Q. Now, are you saying that a financier was to fix the car?

A. He had to approve it in order to be sent to the mechanic.

Q. Did this person John work at the dealership?

B. FREIRE

MR. LANE: Objection as to form.

A. Yes.

Q. Did you eventually bring the car back to the dealership to be fixed?

A. Yes.

Q. And how long did you leave the car at the dealership to be fixed?

A. Like, for seven hours.

Q. It was fixed the same day?

A. Yes.

Q. Did that solve the problem with the steering wheel?

A. Yes.

Q. Do you have a copy of the advertisement on the Internet that you saw?

A. No.

Q. Did you ever make a copy of that advertisement?

A. No.

Q. Do you remember the price that was posted on the Internet for this car?

A. Yes.

Q. What was the price?

B. FREIRE
A. 14,900.
Q. Did you bring a copy of the advertisement with you to the dealership on February 17th?
A. No.
Q. Did you tell either Felix or Dawan about the advertisement and mention the price?
A. Yes.
Q. Was Miriam with you when you went into the dealership on February 17th?
A. Yes.
Q. Was she with you when you had discussions with either Felix or Dawan?
A. Yes.
Q. Tell us in your own words what happened as a result of these discussions with Felix and Dawan.
MR. LANE: Objection as to form.
You can...
A. Can you repeat the question, please?
[Interpreter repeats.]
A. Okay. The conversation I had

B. FREIRE

with Felix was about the price of the car that I saw on the Internet, and it was for 14,900.

Q. And did they show you the car?

A. Yes.

Q. Did you look at the car and inspect the car?

A. I just looked at it.

Q. And on that day, February 17th, did you sign any documents at the dealership?

A. No.

Q. Did you tell anybody at the dealership that you wanted to buy that particular Honda Odyssey?

A. Yes.

Q. Who did you tell?

A. To Felix.

Q. And what did Felix then respond to you?

A. That if I wanted to buy the car for 14,900, I should proceed because they were planning on raising the price of the car since they just got it.

B. FREIRE

Q. Did Felix agree to that price, to sell the car at that price?

A. Yes.

Q. And did Felix tell you what the procedure would be, you know, to buy that car?

A. Yes.

Q. What did Felix say that the process would be?

A. To bring documents, such as proof of address, and that the payment was going to be in cash, the down payment was going to be in cash, for which I had to talk to the financier.

Q. Did you make a down payment on that day, February 17th?

A. No.

Q. When did you first make a down payment?

A. On February 19th.

Q. Was that the second time you came to the dealership?

A. No.

Q. Did you come to the dealership

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then on February 18 for the second time?

A. Yes.

Q. Was it also with Miriam?

A. Yes.

Q. Anybody else?

A. My children.

Q. How old are they?

A. Now or at the time?

Q. Doesn't matter.

A. Now they are seven, four and three.

Q. Did you make a down payment on February 18th?

A. No.

Q. Did you ever make a down payment?

A. When?

Q. Ever.

A. No.

Q. Never made a down payment?

A. Yes. On February 19th.

Q. How much?

A. 7,500.

Q. Was that check or credit card or

cash?
A. It was a cash -- check cash, made by the bank.
Q. A bank check?
A. Bank check cash, they make it.
[Interruption at this time.]
Q. On the 19th?
A. Yes.
Q. In your own words, what happened at the dealership on February 18?
A. I went back, and they told me that the financier wasn't there; that I had to come back the next day.
Q. When you went on the 18th, was it also with Miriam?
A. Yes.
Q. Other than being told to come back the next day, did you sign any documents on the 18th?
A. No.
Q. Was there any discussion between you and anybody at the dealership on either the 18th or the 17th about obtaining a loan to help with your

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purchase of the car?
A. No.
Q. How did you intend to pay for the car?
A. On the 17th, the financier told me the price of the car. When I went back on the 18th, he wasn't there, and when I came back the next day, on the 19th, I met him there.
Q. On the 17th, you say the financier told you the price of the car; what was the name of the financier, if you know?
A. John Dos Santos.
Q. On the 17th, you said you had met with Felix and Dawan; did you have any discussions with Dawan on the 17th?
A. No.
Q. How long did you spend on the 17th talking with the financier, Dos Santos?
A. Fifteen to 20 minutes.
Q. What were you to bring back to the dealership on the 18th?

B. FREIRE

A. A down payment, a copy of a proof of address, and I do not recall what else.

Q. Did you sign any documents at the dealership on the 18th?

A. No.

Q. When he returned on the 19th --

MR. LANE: I'm sorry. Can you try to ask in the first person?

MR. SIMON: Sorry. Doing it again.

Off the record.

[Discussion held off the record.]

Q. When you returned on the 19th, was the first time you signed any documents at the dealership, was that on the 19th?

A. Yes.

Q. Where were you at the dealership, in what room, when you signed those documents on the 19th?

A. At the financier's office.

Q. Who did you hand the down

payment to?
A. To John Dos Santos.
Q. And who did you give your financial information to?
A. To John Dos Santos.
Q. Did you receive a receipt for your down payment?
A. No.
Q. How many hours were you at the dealership on the 19th?
A. For, like, four hours.
Q. In your own words, tell me what happened on the 19th.
A. To tell you what happened about what?
Q. Well, did you obtain insurance for this vehicle?
A. Yes.
Q. Tell us from which company.
A. Progressive.
Q. How did you contact Progressive?
A. I didn't do it. John Dos Santos did.
Q. On the 19th?

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A. No. That was after.

Q. You testified you left with the car on the 19th?

A. Yes.

Q. Did you sign any documents while you were with Mr. Dos Santos?

A. Yes.

Q. Who was with you when you signed those documents?

A. My wife, John Dos Santos and myself, the three of us.

Q. Did anybody else remain in that room other than you, your wife and John?

A. My children.

Q. Did anybody else come in and out of that room during that time?

A. Well, Nada was coming in and out.

Q. Did you ever speak with Nada on the 19th?

A. No.

Q. On the 19th?

A. No.

Q. Did you ever receive copies from

B. FREIRE

the dealership of the documents you signed on the 19th?

A. Yes.

Q. Do you have those documents with you today?

MR. LANE: All of those documents have been turned over in discovery.

MR. SIMON: Well, I request production of those documents now.

MR. LANE: What do you mean? They've been produced.

MR. SIMON: Have you brought them with you today?

MR. LANE: I've got copies here.

MR. SIMON: I ask that they be produced so we'll mark them.

MS. LINDERMAYER: They were already produced.

MR. LANE: This is outrageous. You've come unprepared, and you expect me to provide you with what you need to conduct your deposition.

MR. SIMON: I object to his

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characterization of how I'm handling this. Prepared, unprepared, super-prepared.

MR. LANE: Can you go make some copies for him?

MR. GROSSMAN: Sure.

MR. LANE: I'm doing this as a courtesy. I think it's outrageous, and I want that on the record.

MR. SIMON: Hold the documents. Forget about it. I don't want you to -- seriously. It's more important to me that you're calm. It's not necessary. I just don't want you to be upset.

MS. LINDERMAYER: I'll just say for the record that he is calm. He just disagrees with the way you're handling today's deposition.

MR. SIMON: I don't mean externally or whatever. I just don't want -- he indicated he was upset about it. I don't want him to be upset about it.

B. FREIRE
MS. LINDERMAYER: I just want to be clear that he's being calm. He disagrees.
MR. SIMON: I don't think we have to describe Peter. This is ridiculous.
MR. LANE: If you want copies, we'll take a few minutes and make you copies. Otherwise --
MR. SIMON: I thank you.
[A short recess was taken at this time.]
Q. How did you determine how much to put down for your down payment?
A. Those were savings I had.
Q. And how did you intend to pay the balance of the purchase price?
A. I was not going to buy the car and pay in full in cash; I was going to finance it.
Q. With whom?
A. With the dealer.
Q. Did anybody at the dealership offer to help you get a loan from a bank?

B. FREIRE

A. Yes.

Q. Was there a discussion of different banks or only one bank?

A. There was a discussion about two banks.

Q. Which banks?

A. One of them I do not recall, and the other one was Santander.

Q. How did you decide to use Santander?

MR. LANE: Objection as to form. You can answer.

A. How was the question?

MR. SIMON: I'll ask again.

Q. Did you decide to use Santander, or did somebody else decide to use Santander?

A. I decided to use Santander because the financier offered or suggested two different banks. Santander had a package for $624, payable in four months, and the other one was a loan for 400, payable in 60 months. And Santander had a package payable $624 for four months, and

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after that, a refinancing was offered for the rest -- for the balance to be payable in installments of $155 per month.

Q. When did you first contact or speak with anybody at Santander Bank?

A. When the loan was obtained.

Q. When was the loan obtained?

A. So they approved it on the 19th because that was the day when I got the car. It is supposed that they approve it on that same day.

Q. Did you sign any documents at the dealership on the 19th?

A. Yes.

Q. Do you remember how many?

A. I don't remember how many.

Q. Did you sign an agreement to purchase the car?

A. Yes.

Q. And did you sign an agreement for the loan?

MR. LANE: Objection as to form.

A. Yes.

Q. And before you signed those, did

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you have an opportunity to speak with the financier?

A. The financier for the bank or for the dealership?

Q. You said earlier you spoke to a financier at the dealership, and you said his name was John Dos Santos; was it your understanding he worked for the dealership, or did you believe he worked for the bank?

A. It was for the dealership.

Q. He worked for the dealership?

A. I do not know who he works for; what I know is that I saw him sitting at the dealership's office.

Q. Did you ever speak to anybody or contact anybody at Santander Bank?

A. Yes.

Q. When for the first time?

A. When the loan was approved, after the loan was approved. Two or three weeks after.

Q. For what purpose?

A. They called me requesting

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background information, like my address, to make sure that I was the person who was requesting the loan.

Q. The loan that you signed for had interest charges; right?

A. Yes.

Q. On that original loan, do you know the terms of the loan in terms of the number of years and in terms of what they told you the interest was going to be?

MR. LANE: Objection as to form.

A. Yes.

Q. What was your understanding at the time of those terms?

A. The terms were deceiving because originally it was said that I had to pay $624.12 for four months and that after that, there was going to be a refinancing, and the installments were going to be for $155 complete in 60 months.

Q. Who told you that?

A. The financier, John Dos Santos.

Q. Anyone else?

A. No.

B. FREIRE

Q. Apart from the interest that would have been due on that loan, eliminating the interest completely, whether it was the higher amount or the lower amount, eliminating whatever amount it was going to be either during the first four months or thereafter, so eliminating whatever that amount is or was supposed to be, what was the price of the car?

MR. LANE: Objection as to form.

A. He made an estimate. He gave me a paper and the amount was approximately $20,240 and something.

Q. I'm sorry.

THE INTERPRETER: 20,240-plus.

A. I am talking about John Dos Santos, the financier.

Q. Did he explain why that price was higher than the advertised price, which was 14,900?

A. He made a description in a piece of paper with his own handwriting about why the numbers were like that, 20,240 instead of 14,900.

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Q. Did he explain why the number was higher?

A. He didn't explain it to me. I had to ask him when he wrote on that paper, number by number. I had to ask him from where those numbers came from. Because it didn't look good to me that from 14,900 that number would jump -- jumped to 20,240-plus.

Q. Well, my question is what did he tell you? What was the reason that it went from 14,900 up to 20,000-plus?

A. Oh, because he offered a car insurance for 5,500; that it was supposed to be full coverage and liability. And from that, from there, he described the rest as fees.

Q. Did you ever make a payment to Progressive Insurance for the car insurance?

A. No.

Q. You told us that Progressive issued an insurance policy for this car.

A. No. Progressive was the

B. FREIRE

insurance that John Dos Santos promised me as part of the Santander package. The insurance company I used when I took the car from the dealership was Allstate Farm [sic].

Q. Did either you or Miriam own another car?

A. Yes. Miriam.

Q. Was the insurance carrier for that car State Farm?

A. Yes.

Q. Did you add this car to Miriam's State Farm insurance policy?

A. Yes.

Q. How?

A. Calling.

Q. When?

A. On February 19th.

Q. Calling from the dealership?

A. Yes.

Q. Did you or anybody else send State Farm any information or documents on that day?

A. Yes.

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Q. How?

A. By fax, the dealership's secretary.

Q. Was that to a State Farm office in Jersey?

A. Yes.

Q. And did you get an insurance card that day from State Farm?

A. No. It was just a letter stating that the Honda Odyssey was already under insurance or covered by insurance.

Q. From which State Farm office?

A. Jersey City.

Q. When you were speaking on the 17th and the 19th of February at the dealership with John Dos Santos, what language were you speaking; what language was John Dos Santos speaking?

A. In Spanish.

Q. Did Felix speak Spanish?

A. Yes.

Q. How about Dawan?

A. Dawan doesn't speak Spanish.

Q. How about Nada?

B. FREIRE

A. I never talked to Nada in Spanish.

Q. Any other language did you speak with her?

A. I know a little bit of English, and the times I talked to her was to ask her about the financier, when he was going to go or come.

Q. When you left with the car on the 19th, you already told us that you called the dealership about the steering wheel. How many days later was that?

A. Let me remember, please. That was two or three weeks after.

Q. Did you ever make any payments to Santander Bank?

A. The installments that I was supposed to pay.

Q. How many months did you make those payments for and in what amounts?

A. The amount was 624.12, and I do not recall if it was for 15 or more installments.

Q. Why did you stop?

B. FREIRE
A. Because my lawyer reached an agreement with the bank.
Q. After February 19th, when did you first contact the dealership about any concerns other than the steering wheel?
A. Can you repeat the question, please?
MR. SIMON: I'll withdraw that question.
Q. In what state was the car registered and titled.
A. The title, I don't remember, but the car was insured with State Farm in New Jersey state.
Q. The car had license plates; right?
MR. LANE: Objection as to form.
A. Yes.
Q. From what state?
A. New Jersey.
Q. Did you ever register the car in Jersey?
A. When I bought it.
Q. Well, who dealt with the New

B. FREIRE

Jersey Department of Motor Vehicles? You or the dealership representative?

A. The dealership.

Q. When you left the dealership on the 19th, were there any license plates on the car?

A. There was a plate made of paper that the dealership gave me stating that the car was registered in New York State. It was temporary.

Q. Later on, was there an issue involving the insurance, the State Farm insurance, between you and the dealership?

A. No.

Q. Was that State Farm insurance ever cancelled?

A. With the Honda, no.

Q. With any other of your family's cars?

A. Yes.

Q. Was that involving the dealership?

MR. LANE: Objection as to form. You can answer if you understand.

B. FREIRE

A. Yes. Because John Dos Santos was the one who offered me the insurance in the package of 20,000-plus. The portion of the insurance was 5,500, and he told me that it was about to arrive.

Q. I'm referring to the State Farm insurance.

MR. LANE: Objection. Could you try your question again? We're quite a ways away from that question.

Q. Did State Farm ever cancel its insurance for either your car or any other car of any family members that it insured?

A. No.

Q. When, for the first time after February 19, did you first contact the dealership about any problems other than the steering wheel?

A. Several times. But the problems were not related to the car; they were related to the plates that were not arriving, to the refinancing and to the insurance, as well.

Q. What was the problem with the

B. FREIRE

insurance?

A. That the insurance was not arriving. The insurance he offered me was not arriving.

Q. What insurance?

A. I do not know what insurance he offered me as part of the package, an insurance for five years for 5,500. And because that insurance was not arriving, I start calling, complaining about that.

Q. Is that a service contract to care for mechanical problems on the car?

A. No. The insurance is one thing, and what you're asking me is another thing. It doesn't make sense.

Q. Did you ever cancel State Farm's insurance?

A. No.

Q. The plates for the car, when did they arrive?

A. I do not recall exactly, but it was about after two months. And the temporary they gave me was already expired.

B. FREIRE

Q. Where did the plates arrive from?

A. From New Jersey.

Q. The plates arrived from the New Jersey DMV?

A. Yes.

Q. Did you ever receive any tickets or summonses, prior to the plates arriving, about the missing plates?

A. With the Honda, no.

Q. In your complaint filed in court against the dealership, it says here that you cancelled the State Farm insurance coverage as directed.

A. It was cancelled -- what you're asking me about is regarding to the Honda. Because the Honda was a car I bought from the dealership. But you never asked me about the other car I owned. I never cancelled the insurance with the Honda.

Q. What does it have to do with the dealership that you cancelled State Farm insurance with another car?

A. John Dos Santos offered me an

B. FREIRE

insurance for 5,500. The one I cancelled was the one I had with the Plymouth because I have two cars. That was the insurance I cancelled, the one for the Plymouth.

Q. Did anybody at the dealership ever offer to get you insurance for the other car, the Plymouth?

A. Yes.

Q. When?

A. The day I bought it. John Dos Santos.

Q. When?

A. The day I bought it, February 19th.

Q. You bought the Honda at the dealership, not the Plymouth; right?

A. Yes. But he offered me insurance for the two cars.

Q. On that day, February 19th?

A. Yes.

Q. When did you cancel the State Farm coverage for the Plymouth?

A. In August.

B. FREIRE
Q. That would be several months after February?
A. Yes.
Q. And did you ever get any substitute insurance coverage for that Plymouth?
MR. LANE: Objection as to form. Proceed.
A. How --
MR. SIMON: I'll withdraw the question.
Q. Before you cancelled that insurance coverage on the Plymouth with State Farm in August, had you spoken with Mr. Dos Santos after February 19th?
A. Yes.
Q. When?
A. The insurance on the Plymouth was about to expire, and I didn't renew it because he told me that the new insurance was about to arrive, and that's why I had to call several times and make pressure on him because the insurance was not arriving. And he kept lying to me, saying

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that the insurance was going to arrive any time soon and that it was going to cover both cars.

Q. At whose expense?

MR. LANE: Objection as to form.

You can answer if you understand.

A. Expenses? Can you repeat that?

Q. I asked this question before, and I'm going to ask it again. After you left with the car on February 19, and other than the time or times you called about the steering wheel, did you ever speak to the dealership after February 19th about anything?

A. Yes.

Q. Mamdoh Eltouby, from the dealership, is sitting at this table; did you ever speak to him either before or after you purchased the car?

A. Yes.

Q. When?

A. It was after buying the car to let him know about the insurance. With the little English I know, I tried to

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explain him one day that I went there the situation about the car's insurance.

Q. What month?

A. I do not recall if it was September or October. September or October 2013.

Q. What did he say to you; what did you say to him?

A. I couldn't finish talking to him because John Dos Santos called me to come to his office because there was also the problem with the refinancing.

Q. Did you ever come back and finish your conversation with Mr. Eltouby?

A. No. Mr. Eltouby came to the office where I was meeting with John Dos Santos, who was at the computer, and that was what happened. Mr. Eltouby told Mr. Dos Santos why he had people waiting for such a long time; that there were lots of people waiting for a long time.

Q. After February 19, other than involving the steering wheel, how many times did you come back to the dealership?

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A. Many times. If I would count them, it would be a lot.

Q. For what purpose?

A. Number one, for the plates. Because they were expired -- because the temporary one was already expired, and the new ones were not arriving.

Q. But they did arrive from the DMV; right?

A. Secondly, it was for the insurance and thirdly, was for the refinancing that he had offered to me.

Q. In addition to going to the dealership after February 19, apart from the steering wheel, in addition to going there, did you telephone or communicate otherwise by e-mail or text in any way with the dealership?

A. Calling on the phone and text messaging.

Q. E-mailing?

A. No.

Q. When you were at the dealership after February 19th, apart from the

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problem with the steering wheel, did you ever speak to anybody about your complaints other than Mr. Dos Santos?

A. Yes. With the little English I know, I tried to explain that to Nada, who's the owner's daughter and the one in charge of the dealership.

Q. What did she tell you about your complaints?

A. She used to tell me that she was going to talk to John Dos Santos. That was what I understood; that she was going to talk to John Dos Santos.

Q. And when you called or texted the dealership, who did you speak to?

A. To the secretary. They had a secretary who speaks Spanish.

Q. What did she respond?

A. The answer was always that John wasn't there, and they put me on with Nada, and Nada would say that she was going to talk to John.

Q. Did anybody at the dealership ever solve these problems to your

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satisfaction?

A. No.

Q. When's the last time that you spoke to Mr. Dos Santos?

A. I think it was in October when I talked to Mr. Eltouby.

Q. Did any members of the family ever get a summons or a ticket for driving an uninsured motor vehicle?

A. Yes.

Q. Who was driving the car?

A. Nobody was driving the car. The car was parked, and it was Miriam. It was under Miriam's name.

Q. Did Miriam get a ticket for an uninsured vehicle while she wasn't even driving?

A. Yes. Because it was connected to the sweeping truck that passed by when the car was parked.

Q. What happened with that ticket? What happened with the citation?

A. I had to hire an insurance with State Farm, and I had to pay the ticket.

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I mean Miriam had to do it, you understand.

Q. What month was the ticket?

A. I think it was August.

Q. Miriam renewed the State Farm insurance for her car?

A. The insurance gave us the opportunity to add the car and not pay a fee since the insurance was already expired. How can I explain that?

Q. You don't have to.

What made you believe that the dealership, which was selling you a Honda, would assist Miriam with her insurance on her Plymouth?

A. That was a deceiving act that Dos Santos committed at the time of obtaining the loan with Santander, taking a package including two insurances for two different cars. No. Not two insurances. The Santander package included an insurance for the two cars I have.

Q. Did you get any documents from anybody at the dealership regarding

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insurance?

A. Yes. I do not recall very well.

Q. Did you ever sign any document at the dealership for a service contract regarding the Honda?

A. Yes.

Q. Do you have that with you today?

MR. LANE: Which document?

MR. SIMON: Service contract for the Honda.

Well, I'll just provide a blank in the transcript, and you can provide, upon your review of the transcript and signing the transcript, the information regarding the vehicle service contract or an extended warranty for the Honda and indicate the name of the company that would be providing the coverage and the contract number.

MR. LANE: Again, that document was turned over in the discovery to the dealership, and I can tell you right now it was a vehicle service

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contract by S-Guard, powered by Santander Consumer USA.

MR. SIMON: Okay. So we won't leave a blank. Do you have a contract number?

MR. LANE: In fact, there is a contract number on the document, 56889097460.

Again, this was disclosed.

MR. SIMON: I'm not going to ask any other questions.

MR. LANE: I'm not going to turn over anything that has already been turned over.

MR. SIMON: No. I just wanted the identity of the instrument.

Q. Now, on February 19, did you also purchase from the dealership a policy that would provide benefits if your vehicle was stolen?

A. I don't remember.

MR. SIMON: We'll leave a blank in the transcript, and if he does recall or find out later, he can fill

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in the blank and let us know.

(Insert) ________________________________

MR. LANE: I don't -- he said he doesn't remember.

MR. SIMON: Well, whether he will when --

MR. LANE: If you want to follow up with a more specific question, please do that.

MR. SIMON: Well, I'll leave a blank. If he does recall later, when he signs and returns the transcript, he can let us know that.

I'm almost done.

Q. Did you ever file any complaint against the dealership with any government agency, authority, including the Department of Motor Vehicles or the Department of Consumer Affairs or the attorney general or the Better Business Bureau? Did you ever file a complaint with anyone other than the court?

A. Only with my lawyer.

Q. I wasn't referring to complaints

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filed with your lawyer; I was referring to complaints filed, like, with the Department of Motor Vehicles or with the Department of Consumer Affairs.

A. No.

Q. When did you first obtain a lawyer? What month?

A. It was in October.

Q. Of 2013?

A. Yes.

Q. What lawyer?

A. (Indicating.) Peter Lane.

Q. And how did you come upon finding a particular lawyer?

A. What lawyer are you talking about? My lawyer? I don't understand.

Q. Your lawyer.

A. Well, I looked for referrals on the Internet, on a website.

Q. What website?

A. On Internet, Google, Schlanger and Schlanger.

Q. What did you Google?

A. I typed "consumers protection."

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That was the words.

Q. And you found Schlanger and Schlanger?

A. Yes.

Q. Did you visit their office?

A. Yes.

Q. Where?

A. In New York, in Manhattan.

Q. And --

A. At their offices, Schlanger and Schlanger.

Q. And who did you meet?

A. Mr. Peter Lane.

[Discussion held off the record.]

Q. Were you alone or with Miriam?

A. I was alone.

Q. Miriam is a plaintiff in your lawsuit. You're aware of that; right?

A. Yes.

Q. What wrong did the dealership do to Miriam when it was selling you the Honda?

MR. LANE: Objection as to form.

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You can answer if you understand.

A. Because Miriam participated with her insurance, and she was with me there and my children, and we spent lots of time together trying to solve a problem that was never resolved.

Q. What problem?

A. The plates for the car, the insurance and the refinancing.

Q. Are you aware that in your complaint filed with the court that there's request for a counsel-fee award in this complaint?

A. Yes.

Q. And that you would request reimbursement of your counsel expenses?

MR. LANE: Objection as to form.

You can answer if you understand that question.

A. The expenses, yes.

Q. How much did you pay your lawyer?

MR. LANE: I cannot talk to you right now. You can answer the

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question if you understand what he's asking. If you don't understand, you can ask him to rephrase the question.

A. Okay. Can you rephrase the question, please?

Q. Well, did you or Miriam pay the lawyers anything?

A. Are you talking about my lawyer?

MR. LANE: Objection, objection. This is privileged information.

MR. SIMON: You're seeking counsel fees. I can request a copy of the retainer agreement.

MR. LANE: At the moment, there is an application for fees that will certainly become relevant, and all of that would have to be provided. At the moment, this is privileged information. You're getting into conversations and agreements between me and my client.

MR. GROSSMAN: Just so that I can state something --

MR. SIMON: No, no. Let me just

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respond because I'm doing the deposition. Retainer fees, amounts paid as retainers, agreements on retainers are never, ever, ever within the privilege of attorney/client communication. They're absolutely outside of that. It's not a privileged communication. It's a retainer agreement.

But I didn't even want to get into that. I just asked how much he paid. Because if this goes to trial, whether or not the judge will sever that allegation and decide it differently or whether or not it will be decided as part of a verdict in the context of a trial, that's up to the trial judge.

But there's an issue in the case. I just want to find out how much he paid you. I didn't even ask for the retainer agreement.

MR. LANE: All of that information becomes relevant at the

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time that there's an actual application for fees.

MR. SIMON: There's been an application. We may --

MR. LANE: -- that's an allegation that he's entitled to under the law.

MR. SIMON: Are you directing him not to answer that question?

MR. LANE: I am directing him not to answer that question.

MR. GROSSMAN: Counsel, you're directing him not to answer. If it comes to the point in time that legal fees becomes an issue before the court, would you bring your client back for additional testimony at that time?

MR. LANE: I would either bring him back or have him provide you with information about the fees and have him swear to any payments at that time.

MR. GROSSMAN: Not just the

payment. Anything to do with --

MR. LANE: Any payments, costs.

MR. SIMON: Can I just speak to Bruce alone for a moment?

MR. GROSSMAN: First of all, Bruce isn't here. You want to talk to me quickly?

[A short recess was taken at this time.]

MR. SIMON: I have no further questions.

MR. GROSSMAN: I want to take a two-minute break and go to the men's room, and then I've just got very short...

[A short recess was taken at this time.]

MR. SIMON: I just want to go on the record that I've made a request for a copy of the settlement agreement or information regarding the settlement between the plaintiffs and the codefendant in this case, which is Santander Consumer USA. And the New

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York Motor Group, who I represent as of counsel to Mr. Minsky, has an interest in that settlement and the amount because whatever amounts are collected from a codefendant could offset whatever damage award may be awarded against my client.

And in addition, I believe there was a cross-claim interposed by Santander against the dealership, and in that context, I requested that information and/or the settlement agreement itself. And if plaintiff's counsel wants to respond to that.

MR. LANE: Yes. I can't -- the settlement with Santander is confidential, and I can't voluntarily give that to you.

MR. GROSSMAN: To the extent that these cases may be consolidated, I join in Mr. Simon's request for that information.

MR. LANE: Are you done?

MR. GROSSMAN: Yes.

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MR. LANE: I also just want to make clear if there are any outstanding requests, I'm sure you'll put them in writing to me.

MR. SIMON: Yes. And if I have to address them to the court, we will, and we'll abide by whatever the court rules.

EXAMINATION BY

MR. GROSSMAN:

MR. GROSSMAN: Good afternoon, Mr. Freire. My name is Lance Grossman. I represent a nonparty to this case, M&T Bank. I'm going to ask you a series of questions this afternoon.

If at any time you don't understand my question, please so advise me, and I'll do my best to rephrase it. If you answer a question, sir, I'll interpret that to mean that you understood the question, and I'm going to move on to the next question.

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Q. Do you understand that?
A. Okay.
Q. Sir, prior to coming in here today, did you take any drugs or alcohol which could or would impair your ability to answer the questions I'm about to ask you?
A. No.
Q. Sir, sitting to your left is a court reporter who takes down all the words that you say through the interpreter; do you understand that?
A. Yes.
Q. Sir, you are under oath; you know what that means?
A. Yes.
Q. Have you ever been deposed before today in any lawsuit?
A. No.
Q. Other than Mr. Lane and his law firm, did you speak to anyone prior to this deposition today regarding this lawsuit or the deposition?
A. No.

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Q. Sir, did you review any documents prior to coming in here today?
A. Yes.
Q. Could you tell me, sir, which documents you reviewed?
A. The complaint. That document.
Q. Any other document, sir?
A. No.
Q. Sir, there is an attorney sitting two seats over from you; do you know her?
A. Yes.
Q. How do you know her?
A. Because I was introduced to her today.
Q. But you never met her prior to today?
A. No.
Q. Sir, do you know a person named Simon Gabrys?
A. If I know him?
Q. Yes.
A. No, I don't know him.
Q. Do you know a person named

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Nazrin [phonetic] Chowdhury?
A. No.
Q. Do you know a person named Zheng Hui Dong?
MS. LINDERMAYER: Can you spell that, please?
MR. GROSSMAN: Zheng Hui Dong.
MS. LINDERMAYER: Could you spell that, please?
MR. GROSSMAN: Z-H-E-N-G, H-U-I, D-O-N-G.
A. No, I don't know it.
Q. Do you know a Feng Zhong Chen? F-E-N-G, Z-H-O-N-G, C-H-E-N?
A. No.
Q. Do you know a Dilshod Zaripov? D-I-L-S-H-O-D, Z-A-R-I-P-O-V?
A. No.
Q. And sir, you had testified during Mr. Simon's inquiry that Miriam Osorio is not your wife?
A. We are not married. How can I call her -- is my wife, my woman.
Q. Woman. But you're not legally

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married to her?

A. No.

Q. Did you talk to her about this lawsuit?

A. Yes.

Q. What did you say to her about this lawsuit?

A. Are you talking in general or related to today's deposition.

MR. GROSSMAN: I'll strike that question.

Q. Sir, what are you suing for in this lawsuit?

A. To whom?

Q. Well, suing any of the defendants. What are you suing for?

A. Okay. I am suing, first of all, the dealership because I want this type of actions, the one the dealership did with me, to be punished. What I went through, the time I spent, the time my family, my wife and my children spent with me, I want that to be punished, the dealership to be punished because of that.

B. FREIRE

Because he doesn't only do it with me; he does it with other people, and he will keep doing it with other people otherwise. And what the dealership created was a circus. Everybody was involved. Everybody was part of it about this case.

Q. Sir, you said the dealership did this to other people?

A. I didn't mean that he does it, but he could keep doing it to other people.

Q. I want to make sure I'm clear, sir, because your answer says he did it to other people; are you now saying he could do it to other people?

A. Well, he is doing it to other people because the persons you named are being also affected by the dealership.

Q. How do you know that, sir?

A. Because their names are in this complaint.

Q. Did you ever contact any of those people and talk to them and ask them

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if any of those allegations are true?

A. No.

Q. Do you know anyone who did contact them to see if it was true?

A. No.

MR. GROSSMAN: Can we have this marked, please?

[The document was hereby marked as Defendant's Exhibit A for identification, as of this date.]

Q. Sir, I'm going to show you and your counsel what's been marked as Defendant's A for identification; could you take a look at that please, sir?

Sir, do you recognize that document?

A. Yes.

Q. What do you recognize it to be?

A. Complaint documents.

Q. Did you review that document before it was served on the other attorneys in this case, sir?

A. Can you repeat the question?

Q. Sure. I'll repeat it.

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Did you review that document before your attorneys sent that document to the other attorneys in your case?

A. Yes.

Q. Did you believe all the statements in there to be true, sir?

A. Yes.

Q. If you believe the statements in there to be true, sir, how could you have made any statements regarding Ms. Dong or Mr. Gabrys if you didn't know anything about their cases?

A. My lawyer has mentioned to me that they have similar cases against the dealership of people that went through similar things that me. That's all.

Q. So the allegations in this complaint, in your complaint, regarding those other individuals come solely from your attorney and not from any knowledge that you have?

A. Well, that is what my lawyer told me; that they have similar cases like mine.

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Q. Did you ask your attorney, sir, to show you proof of the allegations contained in that complaint regarding the other individuals I mentioned?

MR. LANE: I object, and I direct my client not to answer that question.

MR. GROSSMAN: He's already opened the door, Counsel.

MR. LANE: He has not opened the door. We went through this last time. You didn't raise it with the court since then.

MR. GROSSMAN: I'm going to raise it.

MR. LANE: If you want to raise it in the future --

MR. GROSSMAN: Are you directing him not to answer?

MR. LANE: Not to answer that question. It's privileged information, what we spoke about.

MR. GROSSMAN: Considering that your witness specifically said that

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all the information in there came from you?
MR. LANE: Yes,
MR. GROSSMAN: I'll ask another question.
MR. LANE: I just want to be on the record. I don't believe that him telling you that facts related to the other witnesses came from my investigation opens the door to the contents of all of our conversations.
Q. Sir, did you look at any documents to show or that would demonstrate the allegations in your complaint were true?
A. Well, they are truthful regarding my case and my concerns and also what the lawyer stated.
Q. You know what, let me rephrase it. Did you, sir, look at any documents which would demonstrate the allegations that are contained in your complaint regarding Dong, Ms. Chowdhury? Not your case, but any of the other cases. That's

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what I'm asking.

MR. LANE: Objection as to form, but you can answer if you understand.

A. No. I didn't understand the question.

MR. GROSSMAN: I'll rephrase the question.

Q. Sir, prior to your attorney sending out that complaint, did you review any documents which would support the allegations in that complaint regarding the claims of Ms. Dong, Ms. Chowdhury, Mr. Gabrys?

A. No. I haven't reviewed any documents, not documents related to them, to those people.

Q. So the allegations, this is the last question, the allegations contained in that complaint regarding those individuals are based on your belief in what your attorney told you?

A. Yes. Because he might have the proofs. He might have the ways how to prove it. He knows why he made those statements.

Q. When you say he might have it, sir, do you know for a fact if he does have it?

A. For some reason he's a lawyer.

Q. Just wanted a yes or no.

A. Can you repeat the question?

MR. GROSSMAN: (Indicating.)

[The requested portion of the record was read.]

A. No. Not in fact.

Q. Do you understand English at all?

A. Not a lot. A little.

Q. Do you speak English at all?

A. A little.

Q. Do you read English?

A. A little.

Q. Did you read that document in English, Exhibit A?

A. I have a person who translated to me and reviewed this document with me.

Q. Did you ask any questions about the document after it was interpreted for

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you?

A. Questions to whom? To my lawyer or to the person who interpreted to me?

Q. Yeah. The person who interpreted.

A. No.

Q. Does Ms. Osorio speak English?

A. No.

Q. Does she read English?

A. A little.

Q. What, if anything, are you claiming in this lawsuit that Santander Bank did wrong to you?

MR. LANE: I have to object. I'm not trying to be difficult. We have a confidentiality agreement with Santander. I'm concerned that --

MR. GROSSMAN: Sir, I don't think he can have it both ways. The consolidation of the cases, it's tied together, and then stop me from asking questions that are going to be relevant if the cases get consolidated.

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MR. LANE: I'm not stopping you. I'm, in an abundance of caution, saying that he should not discuss accusations against Santander on this record at this time absent a court order.

MR. GROSSMAN: You want to call the court up and ask them?

MR. LANE: Can we go off the record for a second?

[Discussion held off the record.]

[At this time, a call was placed to Robert J. Brener, Esq., attorney for Santander.]

MR. GROSSMAN: Can you hear us?

MR. BRENER: I can.

MR. GROSSMAN: Hi, I'm Lance Grossman here with Peter Lane, Ariana and a roomful of people. Richard Simon. We wanted to ask you a question.

MR. BRENER: Uh-oh.

MR. GROSSMAN: We're in the

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middle of a deposition of Mr. Freire, and we're inquiring about allegations raised against Santander in this lawsuit. Mr. Simon has asked questions about the settlement agreement. Mr. Lane has objected. That's going to have to be marked for a ruling.

But before Mr. Lane allows me to ask questions of his witness regarding what claims he had against Santander, he wanted to speak to you because apparently there's some confidentiality agreement that's obviously going to be addressed by the court, but these are questions more about the allegations.

As you know, they've moved to consolidate. So these issues, I believe, are going to be pertinent at one time if the cases get consolidated. So it may be a little premature, but the court has told us we have to go this route. So I think

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what Pete is looking for is what your position on this is.

MR. LANE: Yeah, Bob. I just want to understand. I'm, at the moment, objecting until we hear from you as to whether or not you would find it a breach of any confidentiality for Mr. Freire to answer questions about his claims against Santander that are now settled.

MR. BRENER: Well, the settlement agreement does contain a confidentiality provision in which Mr. Freire is precluded from discussing aspects of the case, including allegations against Santander.

At the outset, are you having this -- are you designating this section or any other section confidential?

MR. GROSSMAN: No. I'm not prepared to do that yet, nor do I

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believe I have to do that yet. Again, this is done at the behest of the court -- overly cautious, depending on how they rule on the consolidation. So as of now, everything to me is fair game.

MR. LANE: What's being done at the court's behest?

MR. GROSSMAN: That we're proceeding with the deposition before he decides on consolidation.

MR. BRENER: I understand that. And putting aside for a moment whether it's relevant or not, but as a practical matter, is there anything that precludes having this part of the discussion marked confidential?

MR. GROSSMAN: I'm not prepared to do that, Rob. I really haven't thought that through, but I'm not prepared to do that.

MR. BRENER: But at a minimum, you can do it until something can be resolved. I don't understand what

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would be the problem for doing so.

And I would agree that you wouldn't be -- it's not a concession that it should be forever deemed confidential, but for purposes of getting through the deposition and having it marked confidential so it can be resolved, what would be a problem with that?

MR. GROSSMAN: You know, I would have to think it through. But I'm thinking, off the top of my head, confidential to what extent? It just stays within this room? I can't ask anyone else about it? I can't raise it in my papers that I have to respond to their request for consolidation? I'm confused as to how confidential it would have to be kept.

MR. SIMON: Mr. Brener, can I -- This is Richard Simon. I'm of counsel to Bruce Minsky, you know, for New York Motor Group, et al. And, you know, we're defendants. I'm of

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counsel to Bruce. I also am representing the same defendants in the related Tuhin matter. T-U-H-I-N. But I'm here in a deposition as of counsel to Bruce.

And, of course, in the Freire case, you know, there's damage claims against my clients and Santander. To the extent Santander has paid money in satisfaction of the plaintiff claims, Freire's claims, that would reduce any damage award that may be entered against my client, would reduce my client's exposure to that extent.

So certainly your settlement, Santander's settlement with Freire has a huge impact on my client in the Freire case. So I have to know the amount. I have to know what the settlement was. I believe Santander had also interposed a cross-claim against the dealership clients, and at that point -- I know I was reading the transcript -- you had told

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Magistrate Gold back when you were considering -- when you were negotiating the settlement that there hadn't been a decision made on the cross-claim against the dealership. And, of course, the cross-claim would be delineated by the amount of your settlement. So have you made a final decision on the cross-claim against the dealership? Among other things, we have to know that.

MR. LANE: Hold on. I completely object to you starting a completely different line in this conversation. Can we stay on what Lance and I --

MR. GROSSMAN: Rob, let me go back one more second. The other issue is, as you know, to show consolidation you have to show a number of things, including overlapping issues and transactions and whatnot. And plaintiff's counsel went into a detailed description in their papers

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to the court. I want to address some of the allegations in this complaint to ferret out a little so that I can put, at least in my responsive papers, that these are not cases that should be consolidated, and part of that is going to come out through his testimony.

So again, at this point, I don't want to limit it, especially if I have to e-file my document. I don't want to blow your confidentiality, but I have to know what your position is, and it's got to be yes or no. Because if your position is that I'll have to keep it confidential, then I guess I'll have to ask the court.

MR. BRENER: Let me address Mr. Simon's point first. With respect to the amount of the settlement, it's confidential, but there is no --

[Discussion held off the record.]

MR. BRENER: Okay. I didn't

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realize that this was part of the transcript.

MR. LANE: I'm sorry, Rob, yes, that is the court reporter, and we should have told you, and I apologize. We are with a court reporter, we are on the record. Can we continue on the record?

MR. BRENER: Yeah. We can continue on the record. I'm going to ask --

MR. LANE: Bob, I'm really sorry about that. It was an oversight that I didn't let you know about that at the start of the conversation.

MR. BRENER: I'm going to ask that I participate by telephone for the rest of the deposition.

But beyond that, with respect to Mr. Simon's issue with settlement, the settlement is confidential. I understand Mr. Simon's point about the amount, but that doesn't need to be addressed through a deposition of

Mr. Freire. That could be addressed through counsel.

The second thing is with respect to the cross-claim, there will be cross-claims, or at least we can assume for purposes of this deposition going forward, that there will be cross-claims by Santander against the dealership. But we can address your issue about the amount and whether you get an offset or not outside of this deposition. Is that fair?

MR. SIMON: Yes.

MR. BRENER: Okay.

MR. SIMON: That's Richard Simon responding.

MR. BRENER: Okay. With respect to the other issue, the larger issue is apparently you're going to ask questions about the allegations against Santander?

MR. GROSSMAN: Yes.

MR. BRENER: Okay. I'm not asking you at this moment to file your

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papers under seal. All I'm asking for is to designate this chunk of the testimony as confidential, finish the deposition, and then we can address the issue before you have to do any filing with the courts. But just as a matter of precaution, designate it confidential. And then after we've looked at the testimony and after we've discussed what you may need or not need for your motion, we can address what, if any, part needs to remain designated as confidential.

MR. GROSSMAN: Rob, again, this is Lance. I don't want to be difficult, and I respect your position and -- my concern, and I have no problem doing that, Rob. My concern is timing. Okay? My concern is timing. And the schedule we have, I know you've been outside the loop, but the schedule we have is we have our papers due on Friday, and I would imagine even if we move extremely

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expeditiously, nothing is going to get done until next week. So I can't necessarily agree to that.

MS. LINDERMAYER: Rob, I'll just throw out -- this is Ariana. The papers are going to be based on the complaint in the motion to amend. So I don't know why the deposition --

MR. GROSSMAN: And it also has to do with consolidation.

MS. LINDERMAYER: Right. But the consolidation is based on the allegations. It's not -- you can't just start to introduce evidence.

MR. GROSSMAN: I disagree with you on that. What I plan on doing, I plan on doing, and you can always object to it the same way you've been. So I'm not going to necessarily agree with you.

MS. LINDERMAYER: Okay. Well, I'm just putting out there my understanding of the law.

MR. GROSSMAN: I understand what

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you're understanding, and I understand what's my understanding is. Consolidation is not necessarily based solely on the pleading.

Anyway, Rob, so what do we do? Can we contact the court and ask the court? Do you want to ask for a ruling?

MR. BRENER: No. Why don't we just have it designated right now, conduct the deposition, and at the end of the deposition, I can talk to you and anybody else about the subject matter of what was asked, and we can resolve it immediately. If we can't resolve it, we'll ask for the court. But I don't think it's worth bringing the court in now prematurely.

MR. LANE: I agree --

MR. BRENER: But, Lance, I'm not precluding you from having it immediately addressed by the court. I'm just thinking practically, we should have the testimony first before

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we go to the court. There may turn out that what is said doesn't need to be designated confidential. It may turn out that only a small portion of that. It may turn out that we can resolve the whole thing after looking at the testimony.

MR. LANE: Right. And I just want to be clear. I mean, I'm tending to agree with Rob. And I'm completely agnostic as to whether or not this information should come up. My only concern is that I do not allow Mr. Freire to violate the confidentiality agreement we have with Santander. I think it's best to come up with a practical solution that lets us finish this deposition, and I'm fairly confident that the attorneys can address this together without getting the court involved.

MR. GROSSMAN: Rob, would you be so kind then, since I don't know what the scope and extent of the

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confidentiality agreement is, to allow Mr. Lane or yourself to state what those terms are so I know what the parameters are to begin with and what should be outside that or what should be within it? I mean, what are you deeming confidential? Anything he says about Santander?

MR. BRENER: Well, broadly speaking, the confidentiality agreement precludes Mr. Freire from talking about the claims and allegations against Santander. And so there's nothing -- there isn't a chapter and verse about what he can and can't say. And I think Peter is correct to raise this issue that there is a confidentiality provision out there, and he doesn't want his client to run afoul of it.

MR. GROSSMAN: No. I respect that. I respect that, Rob. All right. So what we'll do then is I'll get back on the record with him, I'll

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ask him questions. For the purposes of the continuation of the deposition, you can set forth that it's confidential. I can't necessarily agree with it, but I would follow it, but I'm not -- since I don't know what the scope and terms are, but I will state that we can talk after the deposition. And then if we have to, we can contact the court. I'm not necessarily agreeing to something that I don't see and I don't know.

MR. BRENER: What we've agreed to then is we're preserving this testimony and designating it confidential for purposes of completing the deposition. Nobody has conceded anything. Everybody reserves all rights --

MR. GROSSMAN: Okay. I'll do that.

MR. BRENER: Everybody reserves all of their rights with respect to the information, how they may want to

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use it, and we'll resolve it.
MR. GROSSMAN: Rob, hold on.
Because Richard Simon left in the
middle of our agreement.
MS. LINDERMAYER: Sorry. He
just picked up a call and left the
room.
MR. BRENER: I'm sorry. I
apologize. I probably --
MR. LANE: Just hold on.
Because now Lance is out of the room.
MR. BRENER: Can I ask if we're
still on the record?
MR. LANE: We can go off the
record.
[Discussion held off the
record.]
MR. LANE: Rob, we're back on
the record. Richard Simon had stepped
out to take a call while you were
summarizing what it was we had agreed
to. So go ahead and continue with
your summarization. Or actually,
could you start it again?

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MR. BRENER: Okay. Well, I believe what we agreed to is that we're going to designate this section of Mr. Freire's testimony as confidential for purposes of practicality and to complete the deposition.

After the deposition, we can discuss what portions should or should not remain designated as confidential, and counsel will discuss how the information is going to be used going forward.

MR. GROSSMAN: Rob, maybe I misunderstood. The way I looked at it is that we're going to go ahead with the questioning, and then discuss which portions should be confidential, not the other way around. I told you I cannot agree to a confidentiality provision without knowing what the scope and terms of your confidentiality agreement is, and I'm not going to limit myself by saying

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this is all confidential and what comes out is the exception. I should be able to ask him the questions and then agree with you what is confidential.

MR. BRENER: I'm not really sure there's a practical difference, but what I'm saying is, Lance, that to make it easier, just designate it confidential. I'm not precluding you from asking any questions.

MR. GROSSMAN: I understand that. Rob, I got that. But what I'm saying is there is a practical difference. Okay? Because if I agree to the confidential and you turn around and say: Oh, I'm not going to let any of that go out, then I have the burden of contacting the court and having the confidentiality lifted. Whereas if I ask the questions and we can't agree on the confidentiality, you have the burden of proving to the court that what I'm asking falls

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within the scope of the confidence. So where the burden is and the time is, and that's the difference.

MR. BRENER: Well, at this point there's a confidentiality -- I'm trying to make this as easy as possible.

MR. GROSSMAN: Then you should just say: Ask your questions, don't do anything with the testimony until we've had a chance to talk, and then we can agree on what should go forward in the confidentiality.

MR. SIMON: Mr. Brener, this is Richard Simon again. I understand your interest in the confidentiality of the settlement agreement, Santander with Freire and his coplaintiff. I understand that. But why should that impact, you know, the other parties, you know, my clients, deposing this gentleman completely? Why should that be confidential? I mean, that's apart from your settlement agreement.

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MR. GROSSMAN: Exactly. I'm not asking him any questions about the amounts. That Mr. Simon raised. What I want to do is just ask my questions, and simply because you agreed to a confidentiality in your private settlement shouldn't impact on me agreeing to that. Because I didn't have a chance to agree to that confidentiality.

So I think, to get this done, I will say that I won't do anything until we talk. But if there's going to be an asserting of the confidentiality, it should come from your end as opposed to my end to lift it.

MR. LANE: Rob, I tend to agree. I mean, I would -- as long as what Lance is agreeing to is that the whole thing is marked confidential pending a court ruling but that the burden, I guess, would be on Santander to seek that ruling. We'll talk afterwards,

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but then if you are saying, you know, "X," "Y" and "Z" of that testimony should remain confidential, you will then have to seek the order designating it as so, and then everything else will be nonconfidential.

MR. SIMON: Well, I'll take it a step further, Mr. Brener, that when you entered into a separate agreement for Santander with the plaintiffs Freire and his coplaintiff, you were aware at that time that the other parties had to continue with discovery, and, in fact, Freire may testify at trial and could be cross-examined. And in the context of the deposition testimony and the trial testimony, we're entitled to ask Freire not about the settlement agreement, your confidentiality settlement, we can just stipulate an amount, maybe we don't need to even see the agreement. But, of course,

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the amount will impact my client so we have to know exactly what the amount is. Especially if your client is going to pursue a cross-claim against the dealership.

But apart from everything else, there's nothing about the confidentiality of your settlement agreement that should preclude any other party to the actual case, or to the related cases, where they're seeking to join from asking Freire any question we want. You can't preclude us from doing that by having a confidentiality settlement agreement with Freire. We're entitled to ask for everything. He's suing us. He's seeking major damages against us. Even if our questions are about his relationship at the time of the financing, you know, what the circumstances were between him and Santander. We can't be precluded from that.

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MR. BRENER: I'm not asking you -- I'm not at all stating that you should be precluded from asking any question whatsoever. It's with respect to the use of the information. There's a distinction there that I think is important.

MR. GROSSMAN: No, Rob, there isn't. I think what you do --

MR. BRENER: Let me just finish.

MR. GROSSMAN: I'm sorry, Rob. Go ahead.

MR. BRENER: Again, you can ask -- I haven't said, nor will I say, that you can't ask any questions you want here at the deposition. I don't think, at this point, we should have to discuss whether what happens at trial or what doesn't happen. We're dealing with what we have right now at the deposition. Ask the questions that you want to ask.

My concern about the confidentiality agreement is the use

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of the information, which we will discuss at the end of the deposition. And I understand your position with respect to whose burden it's going to be. I would ask that, Lance, what you said, that none of this information at the deposition will be utilized until we have a discussion among counsel, at which point you can identify what information you intend to use, and I will take it up with the court.

MR. SIMON: Let me just conclude this because we have to finish the deposition. So we're free to ask all the questions. And quite honestly, there's no need for -- you've made your position on behalf of Santander very clear. There's no reason to conduct this telephone call any longer on the record with the stenographer writing everything down. So you've made your position very clear.

MR. GROSSMAN: And Rob, this is Lance Grossman again. Again, I am not

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going to do that. I'm going to continue with the deposition as Mr. Simon said. If you want to sit and listen to the questions and after the deposition is over, talk to us and say: Could we make this, this and this confidential? But I have all intentions if -- I don't even know what he's going to testify. If anything is in there that's going to help me in what's going on in this lawsuit, I am not going to deem it confidential unless you get a court ruling. I am not doing it the other way around. I just want to be fully clear on that.

What your side agreement was with the plaintiff is between you and him. It has nothing to do with me. It has nothing to do with Santander. There's a motion for consolidation. I'm asking questions. And you can listen, and you can say, after this is over: Lance, I want this, this and

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this confidential, and I'll say yes or no. And if I say no, I'm going to move forward. You have to then get on the phone with the court or write to the court and ask it to be confidential. The burden is not going to be on me. I'm not agreeing to confidentiality at this time.

MR. LANE: Can I just interject, Lance?

MR. GROSSMAN: Sure.

MR. LANE: If Bob agrees, and Bob forgive me for mediating, but if Bob agrees that it will be his burden to seek a confidentiality order, will you agree to just mark the rest of this deposition confidential pending that order?

MR. GROSSMAN: I'm not agreeing to marking anything confidential. Why should I? Whose ever burden it is. Because if I decide to use it, Rob could say he deemed it confidential.

MR. LANE: Well, then should we

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just proceed with Rob on the phone, allowing Rob to object?

MR. GROSSMAN: Sure. He can object. But he can't stop him from answering.

MR. LANE: Again, my only concern is that I do not allow my client to breach a legal obligation. So I just want to continue with this.

MR. GROSSMAN: Me, too.

MR. LANE: Rob, what can you live with? I'm sorry. I don't know what else to say.

MR. BRENER: Lance, I understand what you said. Go forward.

MR. GROSSMAN: Okay.

MR. SIMON: Thank you very much.

MR. GROSSMAN: Thanks. You going to stay on the phone?

MR. BRENER: I'm going to stay on the phone.

Q. Sir, do you know what a Rico claim is? R-I-C-O.

A. No.

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Q. Sir, could you tell me what Santander Bank did wrong to you or to the coplaintiff?

A. What Santander Bank did was that it participated in the fraud committed through the dealership.

Q. What is fraud, sir?

A. Regarding the financing I had to do with the dealer, I particularly had to pay $624 for 60 months.

Q. And that was Santander's fault?

MR. LANE: Objection as to form. You can answer the question if you understand it.

MR. BRENER: I don't want to be difficult, but can you just move the microphone a little closer to the translator? I apologize.

[Discussion held off the record.]

MR. GROSSMAN: Go ahead.

A. How a bank like Santander was going to finance something that I was not on agreement with the dealership.

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Q. Do you know if the dealership told Santander about that agreement that you had with them?

A. No, I don't know.

Q. Did you ever call Santander or write to Santander and tell them that the dealer gave you a different agreement?

A. No.

Q. Why not?

A. Because the dealer's financier made me believe that it was going to be only four installments of 624.12.

Q. Well, let me ask you this, sir: What's the total amount of money you financed for this car?

MR. LANE: Objection as to form, but you can answer if you understand.

A. What the financier told me was that it was going to be 20,240-something.

Q. That's how much you were going to finance?

A. No. That was what the financier told me that I was going to pay for the car in full.

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Q. I'm asking you, sir, how much did you believe you were going to be financing from Santander Bank?

A. I do not recall if it was 8,000 or $9,000. Since I made a down payment, I do not recall if the balance was 8,000 or $9,000.

Q. Did you ever tell the dealership that the amount to be financed was incorrect?

A. No.

Q. Why not?

A. Because the dealer's financier told me that I was going to have to make only four installments with them.

Q. By the way, sir, there was a point in time that the amount on the Internet price was different than the amount that they quoted you at the dealership?

A. The price on the Internet was 14,900, and when I went to the dealership, it was also 14,900.

Q. But it ultimately went up to

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20,000?

A. Including the insurance that the financier had offered to me for 5,500 plus all the fees.

Q. And you agreed to that?

A. Yes.

Q. What was that total with the insurance and the total fees, do you remember?

A. I don't remember.

Q. Did you review the documents that were submitted to Santander that were applied to the financing?

MR. LANE: Objection as to form, but you can answer.

A. I only reviewed the documents he gave me to sign. I do not know which other documents he send or submitted to Santander.

Q. Which documents do you remember reviewing, sir?

A. When I made the down payment, I signed a yellow paper. I do not recall the name for that document, but in that

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document the amount was stated.

Q. And how much was that amount?

A. It was stated on that document. There were two amounts stated in that document; one for $22,000 and below, another for $47,000-plus.

Q. Did you sign that document?

A. I sign it even though I wasn't agreeing on it. I signed it because he told me that I was not going to stay with Santander Bank unless for those four original payments; that then there was going to be a refinancing and that I was not going to be dealing with Santander any longer.

Q. Then, sir, when you say a refinance, what do you mean by a refinance?

A. As per John Dos Santos, my understanding is that the payments, the installments, were going to be lower after the refinancing.

Q. Did you think the amount of money that you had financed was going to

B. FREIRE

be lower or just the amount of your repayments?

A. The installments, the payments, and also the total amount was going to be lower.

Q. And do you believe Santander knew about that?

A. No. I don't know.

Q. Do you know how much, sir, as you sit here today, what you would have been paying if the amount that you just testified to or paid out over the 60 months at the lower rate of $155 a month, do you know what the total would have been?

A. It was going to be much less than paying 624.12.

Q. Did someone at the dealership tell you that you would be refinancing with Santander Bank?

A. Yes.

Q. Said you would be going with Santander?

A. Yes.

B. FREIRE

Q. Did you ever contact Santander at any time after that date to ask them why the amounts weren't being lowered?

A. No. I didn't call because I believed in what John told me; that I was going to make only four payments with Santander, and then I was going to switch to Bank of America.

Q. So you were going to go to Bank of America for the $155-a-month payments?

A. That was what John Dos Santos said.

Q. But you never confirmed that with Santander?

A. No.

Q. Did anyone read the contracts to you before you signed or any of the papers before you signed them?

A. John, since he speaks Spanish, was explaining to me the meaning of each paper, and I signed them. But I mentioned to him about the high amount, and again he said that it was going to be only for four months, the payment of 624.12, and then I

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was going to refinance with Bank of America.

Q. Let me ask you this, sir: Did anyone ever cover up any of the documents that you signed?

A. Well, when he made me sign a page on the front not under the signature line, and my lawyer showed me the rest, what I was not shown when I sign it.

Q. What weren't you shown when you signed it? Tell me.

A. I do not know the name of that document, but again, I was asked to sign the first page, and I did so. But I didn't know that there was a continuation to the document; that there was a second page that was shown to me by my lawyer later on.

Q. Did anyone force you to sign any documents?

A. No.

Q. Did anyone say: If you don't sign these documents, you don't get your down payment back?

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A. After signing the document, I complained to John Dos Santos about the high amount, and he told me that I have already signed documents and that if I didn't want the car anymore, a fee was going to be deducted from the down payment.

Q. How much was that fee?

A. He didn't tell me. He didn't tell me the amount.

Q. Is that in your complaint?

A. I don't remember [in English].

Q. Sir, in your complaint, you make allegations that you were told that Santander required you to buy packages, a package of some sort, in order to get financing; do you remember that?

A. Santander Bank didn't say so. That was said by the dealer's financier, New York Motor Group.

Q. They said that Santander required it or the New York Motor Group required you to purchase it?

A. No. He said Santander.

B. FREIRE

Q. And they required certain things in order for you to get financing; that's what they're saying?

A. Yes.

Q. Did you ever contact Santander about that and ask them if that was true?

A. No.

Q. Did anyone at the dealership tell you that in order to finance with Santander that they had to increase the price of the car?

A. Yes. The financier.

Q. What did he say? How much did they have to increase the price of the car by?

A. He said that in order to get the package, the down payment had to be increased by $3,000. And that the total value of the car was going to go up to either 17,900 or 17,500. I do not recall well. And that was the only way to be able to get Santander's package, including the insurance that was offered as part of it.

B. FREIRE

Q. Did you ever contact Santander and ask them if that was true?

A. No.

Q. Do you know who Julio Estrada is?

A. Yes. My lawyer has informed me that he was the supposedly John Dos Santos.

Q. John Dos Santos or Julio Estrada, did you speak to anyone else in the finance department of these dealerships about financing?

A. No.

Q. Did you, sir, personally, not your attorneys, ever send any communications to Santander, whether it was an e-mail or a letter or a telegram to Santander telling them that you believe that the dealership had committed fraud on you?

A. No.

Q. Sir, the Plymouth that your wife has, was that purchased from a dealership?

A. No.

B. FREIRE

Q. How many payments did you make to Santander?

A. I do not recall if they were 15 or 16.

Q. And, sir, your testimony was that your last payment was made right before you settled your case?

A. That wasn't my testimony. My testimony was that I stopped the payments two or three months before reaching a settlement.

Q. And a couple of last questions. After what you had just testified, sir, could you tell me specifically what Santander did to participate in the fraud with the dealership?

A. Because the bank financed the purchase and trusted the dealership, trusted the documents that the dealership sends to the bank, which didn't reflect the amount of money I thought I was going to have to pay for.

Q. Okay. Let me ask you this, sir: With respect to Santander, did someone

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ever say that they were going to investigate your claims?
A. Yes.
Q. Were you ever told by Santander that once the contract was signed it could not be altered?
A. Can you repeat that question, please?
MR. GROSSMAN: Read it back, please.
[The requested portion of the record was read.]
A. No.
Q. Did you ever receive notification from anyone that Santander said that they were investigating your matter?
A. No.
Q. Did Santander ever send you any demand letters demanding payments that you weren't making to them?
A. Yes.
Q. When was that, sir?
A. It was between Installments

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No. 7 and No. 8. And that was when I was waiting for the refinance that John Dos Santos has promised to me. And after the fifth installment, I start getting concerned, and I contacted John Dos Santos, and he kept telling me that the refinancing was going to happen any time soon. And by the seventh or eighth payment, I was already behind. But he insisted that after four months I should have the refinancing and stop making those installments to Santander.

Q. Did Mr. Dos Santos ever tell you that you needed a certain amount of money paid before they could do the refinancing?

A. Yes.

Q. When was that?

A. I do not recall the month, but I recall that at some point, he told me that on that same day I have to give $3,000 in order to have access to the refinancing; that otherwise, if I wouldn't have made the payment for $3,000 on that same day, I had to keep paying Santander 624.12 for

B. FREIRE

60 months.

Q. Did you ever fall behind on your payments to Santander?

MR. LANE: Objection as to form.

You can answer.

A. I was behind at Payments No. 7 and No. 8 because of the financier's fault.

Q. What month was that?

A. I do not recall well if it was July or August or August or September.

Q. Did Santander Bank ever call you?

A. Yes.

Q. When was that, sir?

A. It was close to when I was going to be 60 days behind in my payment, and they told me that if I wouldn't have paid, they were going to get the car back.

Q. Who did you speak to?

A. It was a representative from Santander Bank, the one who called me.

Q. Do you have that person's name, sir?

B. FREIRE

A. No.

Q. Anyone else at Santander other than the customer representative?

A. No.

Q. Did they ever say to you that if you didn't make the payments that there were serious legal repercussions, repossession and/or a negative credit rating?

MR. BRENER: Objection. Just note my objection. Thank you.

A. When? When I was behind in payments? I didn't understand the question. Can you rephrase it, please?

Q. Did Santander make any threats to you about not making payments to them?

A. No. No threats. They just called me to let me know when I was behind in my payments, close to 60 days behind, that they could repossess the car eventually.

Q. Did they ever repossess your car?

A. No.

B. FREIRE

Q. Couple of final questions, sir. Just give me one second.

MR. LANE: Can I take a minute?

[A short recess was taken at this time.]

Q. Sir, did the dealership ever give you the option to finance your purchase with any other finance company?

A. Yes.

Q. Which companies?

A. I do not recall well, but I think it was Capital One.

Q. Did they tell you why you had to use Santander?

A. Because the payments with the other bank were higher. They were 400-plus a month for 60 months, and at Santander, they were 624.12 for four months, and after the refinancing, $155 until the 60 months were completed.

Q. Two last questions. Did you discuss the purchase of this car on February 17th, 18th and 19th with Miriam Osorio?

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A. Yes.
Q. And did she state that this was a good purchase for you?
A. Yes.
Q. Did you discuss the financing with Santander with Ms. Osorio?
A. She was present.
Q. Did you put her down on the loan application as contributing towards your monthly income?
A. No.
Q. Did you list her as your wife?
A. No.
Q. Did you list her anywhere on any of the documents that you remember?
A. Yes.
Q. In which document did you list her?
A. I do not recall which document.
Q. Did you list her as your wife on that document?
A. I do not recall. I recall that her name was there, but I do not recall if it was listed under my spouse or not.

B. FREIRE

Q. Last question: Did she sign any of the documents?

A. I don't remember.

MR. GROSSMAN: I have nothing further at this time. Thank you.

[TIME NOTED: 2:53 p.m.]

____
BORIS FREIRE

____
Subscribed and sworn to
before me this _________
day of _________________, 2015.

____
Notary Public

I N D E X

WITNESS	EXAMINATION BY	PAGE
BORIS FREIRE	MR. SIMON	5
	MR. GROSSMAN	59

E X H I B I T S

DEFENDANT'S	DESCRIPTION	PAGE
Exhibit A	Exhibit B, Proposed Amended Complaint and Jury Demand	65

Attorney LANCE S. GROSSMAN, ESQ. has retained all exhibits.

INSERTS

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REQUESTS

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CERTIFICATION

I, ELENA A. EGAN, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of February, 2015.

____

ELENA A. EGAN

* * *

ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Boris Freire, et al. v. New York Motor Group LLC, et al.
DATE OF DEPOSITION: January 21, 2015
WITNESS' NAME: Boris Freire
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BORIS FREIRE

SUBSCRIBED AND SWORN TO
BEFORE ME THIS______DAY
OF________________, 2015.

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NOTARY PUBLIC
MY COMMISSION EXPIRES___________________

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.